



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

RECEIVED

AUG 11 2004

GROUP 3600

JOHNSON OUTDOORS INC.,  
f/k/a Johnson Worldwide  
Associates, Inc., a Wisconsin  
corporation,

CASE NO.: 1:01 cv 6 MMP

Plaintiff,

v.

TREBOR INDUSTRIES, INC., a  
Florida corporation,  
ROBERT M. CARMICHAEL, an  
individual, and JOSEPH R. SINK,  
an individual,

Defendants.

AFFIDAVIT OF JOSEPH B. STELLA

STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

BEFORE ME, the undersigned authority, this day personally appeared  
JOSEPH B. STELLA, who, being first duly sworn, deposes and says:

1. I am over the age of eighteen years and have personal knowledge of the  
matters set forth in this affidavit.

2. I am President/General Manager North America of Johnson Outdoors Inc., which does business in the scuba diving industry as "SCUBAPRO."

3. SCUBAPRO is a worldwide leader in the field of research, design, and manufacture of high performance, quality diving equipment. SCUBAPRO's North American headquarters are located in El Cajon, California.

4. One of the many products developed by SCUBAPRO is a quick disconnect, one-step weight release system that is integrated into a buoyancy compensator that can be released quickly with one hand ("the SCUBAPRO System"). SCUBAPRO has patents pending for the SCUBAPRO System since July 2000. A copy of the promotional literature which reflects the SCUBAPRO System is attached hereto as **Exhibit A**.

5. SCUBAPRO intends to introduce, demonstrate and market the SCUBAPRO System at the January 24 through 27, 2001 trade show of the Dive Equipment Marketing Association ("DEMA"). DEMA is a trade show that usually occurs only once per year, although the next DEMA show, after DEMA 2001, will not occur for approximately eighteen months.

6. DEMA is the primary international tradeshow within the SCUBA industry and represents the best vehicle for introduction and marketing of new products to the SCUBA industry. Information about DEMA 2001 from its web page including a description of the show and its benefits to participants is attached as **Exhibit B**.

7. Robert M. Carmichael ("Carmichael") is President of Trebor Industries, Inc. which operates under the name of "Brownies Third Lung" and/or "Halcyon"

(collectively, "Halcyon"). Halcyon is marketing on its web page and otherwise a competing integrated weight system which it designates as the "Active Control Ballast" (the "ACB System").

8. For example, SCUBAPRO receives Skin Diver Magazine. In the December 1999 issue of Skin Diver that I received, I saw an advertisement for the ACB System. A true and correct copy of that Skin Diver Magazine is attached hereto as Exhibit C.

9. In addition, when I attended DEMA 2000, in January 2000, I saw the ACB System displayed at Halcyon's booth.

10. Mr. Carmichael has claimed that the SCUBAPRO System originates from the design of the ACB System and that SCUBAPRO learned of and made use of the technology developed by Halcyon and/or Carmichael as a result of the exchange of confidential information under reciprocal Non-Disclosure Agreements between SCUBAPRO and Halcyon dated December 16, 1999, which are attached hereto as Exhibit D.

11. Moreover, Halcyon and/or Mr. Carmichael have threatened to interfere with SCUBAPRO's marketing and development of the SCUBAPRO System including SCUBAPRO's marketing the product at DEMA 2001 by seeking an injunction, criminal sanctions and other means of interference. A copy of e-mails from Mr. Carmichael to SCUBAPRO making these threats is attached hereto as Exhibit E.

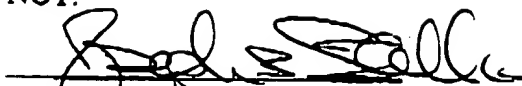
12. If SCUBAPRO is prevented from showing and marketing the SCUBAPRO System, for which it has patents pending, at the DEMA 2001 or should

Halcyon and/or Carmichael interfere with that marketing by obtaining an injunction or disseminating disparaging remarks to third parties alleging the theft of the product design, SCUBAPRO will be irreparably injured.

13. SCUBAPRO does not have an adequate legal remedy since it will have lost the principal opportunity to demonstrate and introduce its product to prospective customers in the 2001 sales year. It will be impossible to determine the precise amount of sales that would be lost, but based on SCUBAPRO's market analysis, the lost sales would be in excess of \$3 million.

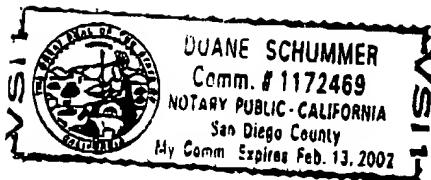
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FURTHER AFFIANT SAYETH NOT.

  
Joseph B. Stella

Sworn to and subscribed before me, this 18<sup>th</sup> day of January, 2001, by

Joseph B. Stella



  
Signature of Notary

DUANE SCHUMMER

(Print, Type or Stamp, Commissioned name of Notary Public)

Personally Known \_\_\_\_\_ OR Produced Identification ☒

Type of Identification Produced CALIF. DR. LIC.

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